

SUMMARY ANALYSIS OF AMENDED BILL

Author: Lieu/Jones Analyst: Jennifer Bettencourt Bill Number: AB 650
 Related Bills: See Prior Analysis Telephone: 845-5163 Amended Date: March 29, 2007
 Attorney: Tommy Leung Sponsor: _____

SUBJECT: Federal Earned Income Tax Credit Act/Notification Of Qualified Employees And Taxpayers

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced February 21, 2007.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2007, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would require notification to qualified employees and taxpayers of the availability of the federal earned income tax credit (EITC).

SUMMARY OF AMENDMENTS

The March 29, 2007, amendments added language that would require employers to notify their employees of the availability of the EITC. As a result of these amendments, the "Implementation Considerations" have been revised, and the department has identified additional concerns. Except for the discussions provided below, the remainder of the department's analysis of this bill as introduced February 21, 2007, still applies.

THIS BILL

This bill would require an employer, as defined, to notify all employees that they may be eligible for the EITC. The employer would be required to provide notification by either handing it to the employee or mailing it to their last known address within one week before, after, or at the same time that the employer provides an annual wage summary (i.e., W-2 or 1099).

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	<u>X</u> PENDING

Legislative Director

Date

Brian Putler

4/12/07

This bill would require that the notice be either of the following:

- Any notice available from the IRS, including but not limited to IRS Notice 797, or any succeeding notice or form, or
- Any notice created by the employer, as long as it contains substantially the same language as IRS Notice 797, or the same language as referenced in Section 19854, subdivision (a).

Upon request of the employee, this bill would also require every employer to provide and process, in accordance with federal law, Form W-5 for advance payments of the EITC.

This bill includes a sample notice to be furnished to employees, and requires the employer to update the notice annually to include all appropriate updates to the EITC program as determined by the federal government.

This bill would also require the Franchise Tax Board (FTB) to notify taxpayers who may qualify for the federal EITC by sending a notice in a form prescribed by FTB to the taxpayer's last known address.

This bill would define the following terms:

- "Employer" means any California employer who is subject to and is required to provide unemployment insurance to his or her employees under the Unemployment Insurance Code.
- "Employee" means any person who is covered by unemployment insurance by his or her employer.
- "Earned income tax credit" means the federal earned income tax credit, as defined in Section 32 of the Internal Revenue Code.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill would require FTB both to identify and to notify any individual in California who may qualify for the federal EITC. Many individuals who qualify to claim the federal EITC are not required to file a California income tax return because they do not meet the minimum income threshold for filing a California income tax return. Consequently, the department has no information to identify a significant number of Californians who fail to claim the federal EITC.

This bill fails to specify when and how often the department must send notification to taxpayers regarding their EITC eligibility. Because the IRS provides a three-year period for taxpayers to file a claim for the EITC, it is unclear whether the author intends for the department to notify taxpayers for past years in which the taxpayer was eligible for the credit and can still file a claim, or only the current year. Without clarification, this bill could be interpreted to require the department to notify taxpayers only one time, without regard to all years for which the taxpayer may be eligible, which may be contrary to the author's intent.

TECHNICAL CONSIDERATIONS

Proposed Government Code Section 19850 refers to the "board," however, Part 10, Division 2 defines "board" as the State Board of Equalization. It is recommended that on page 4 line 23, the term "board" be replaced with "Franchise Tax Board" to remain consistent.

FISCAL IMPACT

Implementing the employer requirements of this bill would not significantly impact the department because department personnel staff currently process Form W-5 for advance payments of the EITC upon an employee's request.

The department's costs to administer the requirement that FTB notify eligible taxpayers will be determined when the implementation considerations have been resolved, but could be significant if the department is required to identify any taxpayer who may qualify for the federal EITC.

ARGUMENTS/POLICY CONCERNS

This bill lacks an enforcement mechanism or penalty that would result in the event an employer fails to comply with the requirements of this bill. Without an enforcement provision, an employer could interpret the notification requirement as optional, which may be contrary to the author's intent.

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